

## **MDM Declaration Exhibit A-16**

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
SUSANNA MIRKIN and BORIS MIRKIN,  
Individually and on Behalf of All Others  
Similarly Situated,  
Plaintiffs,  
vs. No. 18 Civ. 2949 (ARR) (RER)  
XOOM ENERGY, LLC and XOOM ENERGY  
NEW YORK, LLC,  
Defendants.

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VIDEOTAPED DEPOSITION OF  
SEABRON ADAMSON  
Tuesday, November 8, 2022  
10:06 a.m.  
Veritext  
101 Arch Street  
Boston, Massachusetts 02110

Laurie K. Langer, RPR

<p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFF(s):</p> <p>4 BY: Steven L. Wittels, Esq.</p> <p>5 Ethan D. Roman, Esq. (appeared via Zoom.)</p> <p>6 Steven D. Cohen, Esq. (appeared via Zoom.)</p> <p>7 WITTELS MCINTURFF PALIKOVIC</p> <p>8 18 Half Mile Road</p> <p>9 Armonk, New York 10504</p> <p>10 (914) 319-9945</p> <p>11 slw@wittelslaw.com</p> <p>12</p> <p>13 ON BEHALF OF THE DEFENDANT(s):</p> <p>14 BY: Michael D. "Matt" Matthews, Jr., Esq.</p> <p>15 MCDOWELL HETHERINGTON LLP</p> <p>16 1001 Fannin Street, Suite 2700</p> <p>17 Houston, Texas 77002</p> <p>18 (713) 337-5580</p> <p>19 matt.matthews@mhlhp.com</p> <p>20</p> <p>21 ALSO PRESENT:</p> <p>22 David C. Coleman</p> <p>23 Shawn Budd, Videographer</p> <p>24</p> <p style="text-align: right;">Page 2</p>	<p>1 PROCEEDINGS</p> <p>2</p> <p>3 VIDEOGRAPHER: Okay. We are on the record.</p> <p>4 This is the videographer speaking Shawn Budd with</p> <p>5 Veritext Legal Solutions. Today's date is November 8th,</p> <p>6 2022 and the time is 10:06 a.m.</p> <p>7 We are here in Boston, Massachusetts to take</p> <p>8 the video deposition of Seabron Adamson in the matter of</p> <p>9 Susanna Mirkin, et al, versus XOOM-Energy in New York,</p> <p>10 LLC.</p> <p>11 Will counsel please introduce themselves for</p> <p>12 the record.</p> <p>13 MR. WITTELS: Steven Wittels. Wittels</p> <p>14 McInturff and Palikovic for the Plaintiffs and the</p> <p>15 proposed class on behalf of the witness today,</p> <p>16 Mr. Adamson.</p> <p>17 Appearing by video are also for the</p> <p>18 Plaintiffs in the proposed class Steven Cohen and Ethan</p> <p>19 Roman.</p> <p>20 MR. MATTHEWS: My name is Matt Matthews, I'm</p> <p>21 with the law firm of McDowell Hetherington and I</p> <p>22 represent the Defendants XOOM Energy.</p> <p>23 Also with me here today is David Coleman of</p> <p>24 the NorthBridge Group who is, has been designated as a</p> <p style="text-align: right;">Page 4</p>
<p>1 INDEX OF EXAMINATION</p> <p>2</p> <p>3 WITNESS: Seabron Adamson</p> <p>4 EXAMINATION PAGE NO.</p> <p>5 By Mr. Matthews 5</p> <p>6 By Mr. Wittels 138</p> <p>7</p> <p>8 INDEX TO EXHIBITS</p> <p>9 NO. DESCRIPTION PAGE NO.</p> <p>10 Exhibit 1 Expert Report of Derya 8</p> <p>11 Eryilmaz and Seabron Adamson</p> <p>12 Exhibit 2 Electricity Sales Agreement 12</p> <p>13 Exhibit 3 Expert Report of David C. 47</p> <p>14 Coleman</p> <p>15 Exhibit 4 Rebuttal Report of David C. 48</p> <p>16 Coleman</p> <p>17 Exhibit 5 First Amended Class Action 113</p> <p>18 Complaint</p> <p>19 Exhibit 6 Market Supply Cost Build Up 114</p> <p>20</p> <p>21 (Original exhibits attached to original transcript)</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: right;">Page 3</p>	<p>1 testifying expert for XOOM.</p> <p>2 VIDEOGRAPHER: The court reporter today is</p> <p>3 Laurie Langer. Will you please swear in the witness.</p> <p>4</p> <p>5</p> <p>6 SEABRON ADAMSON,</p> <p>7 having been satisfactorily identified by the production</p> <p>8 of his driver's license, and duly sworn by the Notary</p> <p>9 Public, was examined and testified as follows:</p> <p>10</p> <p>11</p> <p>12 EXAMINATION</p> <p>13</p> <p>14 BY MR. MATTHEWS:</p> <p>15 Q. Good morning, Mr. Adamson. How are you?</p> <p>16 A. Good morning.</p> <p>17 Q. Thank you for being here today. Before we jump</p> <p>18 in, I'll quickly go over ground rules. I know you've</p> <p>19 been deposed before, --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- I'm sure you're familiar with them. But this</p> <p>22 is not meant to be any sort of endurance test, anytime</p> <p>23 you need a break just let me know, we can take a break.</p> <p>24 With, you know, the same qualification you always</p> <p style="text-align: right;">Page 5</p>

<p>1 agreements. If you want to take that to be liability,  2 liability I guess is a legal term. But -- so I am  3 addressing issues related to the consistency of the, the  4 rates and the sales agreements.  5 Q. Okay. And whether or not XOOM breached those  6 provisions?  7 A. Well, I mean, again, "breach" seems a legal word.  8 But whether it's -- whether the pricing was consistent  9 with the, with the pricing required in the sales  10 agreements.  11 Q. Okay. Is "breach" a word that you have  12 difficulty with?  13 A. No, I just.  14 Q. You've worked in a lot of --  15 A. Yeah.  16 Q. -- litigation for a long time.  17 A. Sure. I just -- I don't know exactly what  18 implications you're trying to put to that. I was just  19 trying to describe clearly what I did, which I think is  20 what's described here.  21 Q. I guess put differently, you are offering an  22 opinion about whether or not XOOM complied with the  23 pricing provisions of its sales agreement?  24 A. Yes.</p> <p style="text-align: right;">Page 10</p>	<p>1 Q. Okay. So the third bullet point says that you  2 have been asked, "to determine whether XOOM set its  3 rates as required by the sales agreements."  4 Correct?  5 A. Yeah. The consistency, you know, the consistency  6 from an economic and commercial point between the rates  7 and, and, you know, how it -- how it -- how it  8 describes, I think, the phrase that we'll get, we'll get  9 around to today about the actual and estimated supply  10 costs --  11 Q. Yep.  12 A. -- in the -- in the sales agreement.  13 Q. Right. That's -- that's where I was going next.  14 The sales agreement requires that rates be set,  15 "based on XOOM's actual and estimated supply costs."  16 Right?  17 A. I don't have the phrasing in front of me, but  18 that sounds right.  19 Q. We can do that. I'm not trying to --  20 A. Yeah. I mean -- I think that's --  21 Q. Bear with me one second.  22 MR. MATTHEWS: May I mark this as Exhibit 2.  23 (Deposition Exhibit No. 2 marked for  24 identification.)</p> <p style="text-align: right;">Page 12</p>
<p>1 Q. Okay. And so are you also offering an opinion  2 about how the pricing terms of the sales agreements  3 should be interpreted?  4 A. No. I'm providing a -- my -- well, I'm providing  5 my understanding of what it says and in the context of  6 the, of electricity and gas markets and retail markets  7 and how that works out. Obviously, I'm not offering a  8 legal opinion on the language.  9 Q. Okay.  10 A. I'm offering my understanding based on knowledge  11 of these markets of how these, how these work.  12 Q. Okay. You're not offering a legal interpretation  13 of the pricing provisions in the XOOM sales agreement?  14 MR. WITTELS: Objection. I mean, I think he  15 asked -- he just answered it, didn't he?  16 MR. MATTHEWS: Steve, please, no speaking  17 objections today. Please.  18 MR. WITTELS: But it's the same question.  19 MR. MATTHEWS: "Objection form" is what's  20 appropriate to say, as you have reminded me. Okay?  21 A. I am not offering a legal opinion.  22 Q. Okay. Were you asked to assume a particular  23 interpretation of the pricing provisions?  24 A. No, not really. I mean, they're on the page.</p> <p style="text-align: right;">Page 11</p>	<p>1 Q. Okay. And, Mr. Adamson, does this appear to be a  2 copy of the sales agreement you were referring to?  3 A. Yes, I think so. I mean, there were  4 various, obviously various versions of these over time,  5 but this looks like the one.  6 Q. This is the one that you analyzed --  7 A. Yes, I believe --  8 Q. -- in connection with preparing this report?  9 A. Yes, I believe so.  10 Q. Okay. And in connection with the assignment to  11 determine whether XOOM set its rates as required by the  12 sales agreements, can you direct me to the provisions  13 that you looked at that relate to rate setting?  14 A. I mean, you know, obviously the -- the -- the  15 primary one is in this top right box, starting "your  16 rate."  17 Q. "Your rate for energy purchases will be a  18 variable rate, per kilowatt hour, that may change on a  19 monthly basis, plus taxes and fees, if applicable. Your  20 monthly variable rate is based on XOOM's actual and  21 estimated supply costs which may include but not be  22 limited to prior period adjustments, inventory and  23 balancing costs. You are responsible for all charges  24 assessed and billed by your local utility for all</p> <p style="text-align: right;">Page 13</p>

<p>1 Q. In doing that rate conversion, do you interpret 2 that provision to mean that XOOM may include a margin in 3 its rate? 4 MR. WITTELS: Objection. 5 A. I don't see that listed here. You know, it says, 6 "actual and estimated supply costs." I don't see that 7 here. Sort of as we said, I anticipated that was going 8 to be kind of argued. I mean, when you have the reading 9 here, I don't see that. It says, "actual and estimated 10 supply costs," it doesn't talk about margin. I mean, so 11 I think the most straightforward reading of that is it 12 doesn't have margin in it. 13 Q. In your opinion XOOM may not include a margin in 14 its rate based on that contract provision? 15 A. I would say it's actual -- I mean, if they -- 16 if -- it just needs to -- it needs to be to actual and 17 estimated supply costs. Which does not list here 18 "margin." 19 Q. Mr. Adamson, I'll stipulate that the word 20 "margin" is not in that provision. 21 A. Yes. 22 Q. You don't have to tell me that again. 23 A. Okay. 24 Q. I want to know, your interpretation is. You're Page 30</p>	<p>1 has. 2 So I would, you know -- I imagine that that was, 3 imagined that that was going to come up. I think -- I 4 mean, whether, to the extent non supply costs margins 5 are included really is something that the judge or the 6 jury or whoever decides on this has to, has to opine on. 7 Q. Okay. Because you're not offering a legal 8 interpretation? 9 A. I am not offering a legal interpretation. 10 Q. Okay. If I said that I interpret that phrase 11 based on actual and estimated supply costs to mean that 12 XOOM's rate will rise and fall with its supply costs, 13 would you agree with that or disagree? 14 MR. WITTELS: Objection. By the way, when 15 you say "you," you the lawyer? I don't know what you 16 mean. 17 A. Sorry. Can you repeat the question. 18 Q. I say that when I, Matt. 19 A. Right. Okay. We get our pronouns right. Yeah. 20 Okay. 21 Q. Read that pricing provision, specifically the 22 phrase "based on XOOM's actual and estimated supply 23 costs," I think that means that XOOM's rates will rise 24 and fall with its supply costs. Would you agree with Page 32</p>
<p>1 offering an opinion of what this provision means; yes? 2 A. Yeah, I'm offering what I think is a, you know, a 3 relatively commonsensical commercial one. I'm -- my -- 4 my ordinary reading of this is, you know, deal with 5 supply costs and, and that's what it says. 6 Q. And does it mean that XOOM may include a margin 7 on top of those supply costs? 8 MR. WITTELS: Objection. 9 A. They -- my kind of ordinary read of that is it 10 doesn't say that, unless, unless they are -- it's not 11 included in supply costs, it doesn't list that. And 12 it's not a, you know, direct actual supply cost. That's 13 what it says. So I think the answer to your question is 14 no. 15 Q. Okay. 16 A. If you were to say it does, okay, that's 17 different. That's a different view of the same thing. 18 Q. Okay. So if I said that rate setting provision 19 that we've been looking at based on actual and estimated 20 supply costs means that the rate will be consistent with 21 costs plus an appropriate margin, you would disagree? 22 A. I mean, the first order based on it said what it 23 says, yes. I mean, I -- I can -- I would guess you 24 would probably argue that. Which I believe Mr. Coleman Page 31</p>	<p>1 that reading or disagree? 2 A. I think that is -- if the rate is determined from 3 actual and estimated supply costs then that is likely to 4 be true, but that doesn't seem to be sufficient to me to 5 meet the requirement. 6 Q. What else would be required? 7 A. Well, again, as I -- as we tried to explain in 8 that rebuttal report, moving together is a very weak 9 measure of anything; right? So the real question is 10 not, not just do things move together, but, I mean, 11 obviously there are other elements of a mathematical 12 relationship between moving together. I don't think 13 moving together is sufficient to determine whether 14 that's, quote, based on. 15 Q. So if it's not just that it moves together, -- 16 A. Uh-huh. 17 Q. -- what else is required? 18 A. Well, -- 19 MR. WITTELS: Object to the form. 20 A. -- as I indicated -- as we indicated in our 21 rebuttal report, there needs to be an, an economically, 22 you know, reasonable relationship between those two, 23 because moving together, as I illustrated, and which, I 24 think, you know, everyone can understand, doesn't, it Page 33</p>

<p>1 opinion.</p> <p>2 MR. WITTELS: But usually if you're making a</p> <p>3 statement you're taking it from there.</p> <p>4 MR. MATTHEWS: Well, thank you for that</p> <p>5 guidance. I'm learning a lot.</p> <p>6 A. Well, I think it's probably around page....</p> <p>7 Q. I'll find it for you. How about paragraph 23B</p> <p>8 and 54.</p> <p>9 A. 54. Right. Okay. Yes. Okay. Sorry, can you</p> <p>10 repeat your question.</p> <p>11 Q. Please, if you would, so we don't have any</p> <p>12 confusion, if you would read both of those paragraphs.</p> <p>13 And then I'll --</p> <p>14 MR. WITTELS: Into the record, --</p> <p>15 Q. -- proceed.</p> <p>16 MR. WITTELS: -- or?</p> <p>17 MR. MATTHEWS: No. No. Just to himself.</p> <p>18 A. (Witness reviewing.) Okay.</p> <p>19 Q. Okay. What -- you, generally speaking, opine</p> <p>20 with reference to those prior period adjustments that</p> <p>21 you were unable to substantiate whether XOOM considered</p> <p>22 them in setting its rates; is that a fair statement?</p> <p>23 A. Yeah. I mean, we looked at the information in</p> <p>24 the rate setting workbooks, which was very extensive.</p> <p style="text-align: right;">Page 62</p>	<p>1 A. And then there was testimony as I note in</p> <p>2 paragraph 54 about potential kind of makeup losses,</p> <p>3 which I guess you could consider some kind of prior</p> <p>4 period adjustment. But in -- with an unrelated market</p> <p>5 not related to New York. So there's testimony</p> <p>6 that -- there's general testimony and then there's</p> <p>7 specific testimony.</p> <p>8 Q. About consideration of prior period adjustments?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Got it. We're on the same page.</p> <p>11 A. Okay.</p> <p>12 Q. The period of time --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- that you looked at for rate setting</p> <p>15 procedures --</p> <p>16 A. Uh-huh.</p> <p>17 Q. -- goes from 2013 to 2021; right?</p> <p>18 A. Yes. Broadly, yes.</p> <p>19 Q. Broadly?</p> <p>20 A. Yeah.</p> <p>21 Q. Did you do any analysis of what other ESCOs</p> <p>22 charged in New York during that same time period?</p> <p>23 A. No.</p> <p>24 Q. Okay. So you don't know how XOOM's rates</p> <p style="text-align: right;">Page 64</p>
<p>1 There didn't seem to be any determination, calculation,</p> <p>2 amounts or anything associated with prior period</p> <p>3 adjustments as expected. I'm -- I was really kind of</p> <p>4 expecting there to be, if you were making prior period</p> <p>5 adjustments, to have some calculation of those, which I</p> <p>6 never saw. So that's kind of just what it's a reference</p> <p>7 to.</p> <p>8 Q. Got it. So you're saying because XOOM didn't</p> <p>9 memorialize it and document or a calculation that shows</p> <p>10 how it was factored in, you have no evidence that they</p> <p>11 considered it; is that fair?</p> <p>12 A. Well, I'm saying I didn't, I didn't see</p> <p>13 any -- there was no data suggesting that that was ever</p> <p>14 calculated.</p> <p>15 Q. Right.</p> <p>16 A. And it seems to me that would be a calculation.</p> <p>17 Q. There was testimony that it was considered;</p> <p>18 right?</p> <p>19 A. I think there was testimony that it was</p> <p>20 considered and as I mentioned in paragraph 54, though,</p> <p>21 there was testimony -- well, there was testimony I</p> <p>22 believe that said, oh, it was part of this, what we</p> <p>23 considered in some very broad abstract sense.</p> <p>24 Q. Yep.</p> <p style="text-align: right;">Page 63</p>	<p>1 compared to other ESCOs rates?</p> <p>2 A. For purposes of this we never made a comparison.</p> <p>3 Q. And you don't know if XOOM's rates were outside</p> <p>4 of the range of what ESCOs were charging during that</p> <p>5 time period?</p> <p>6 A. No, we didn't look at that. It didn't seem very</p> <p>7 relevant.</p> <p>8 Q. Okay. What was relevant in the, your damage</p> <p>9 analysis, was how much gross margin XOOM sought on top</p> <p>10 of its supply costs; right?</p> <p>11 MR. WITTELS: Objection.</p> <p>12 A. Can you repeat that, again.</p> <p>13 Q. Yep. What you believed was relevant in your</p> <p>14 damage calculations was how much gross margin XOOM</p> <p>15 sought on top of its supply costs?</p> <p>16 MR. WITTELS: Objection.</p> <p>17 A. I mean, that's a way that -- I think you're</p> <p>18 putting a characterization of it. I think what really</p> <p>19 the -- you're characterizing it -- one might</p> <p>20 characterize it that way, but the, you know, as, as</p> <p>21 discussed, the, you know, what's important is the</p> <p>22 relationship between rates and, and supply costs. If</p> <p>23 you want to characterize that as being a gross margin</p> <p>24 calculation, I think you could formulate it that way,</p> <p style="text-align: right;">Page 65</p>

<p>1 which is I think what you're doing. But I think you  2 understand what we did.  3 Q. I am, because I'm focusing in my question, I have  4 built this in on your damage calculation. So I  5 understand your position about bullet 3, let's call it.  6 Which is your opinions about whether or not XOOM's rate  7 setting was consistent or not, with the sale agreement.  8 But I'm talking about with respect to 4, after  9 you concluded --  10 A. Uh-huh.  11 Q. -- the rate was not consistent --  12 A. Right.  13 Q. -- that your damage model --  14 A. Right.  15 Q. -- and what they considered relevant was the  16 amount of gross margin that XOOM put on top of its  17 supply cost?  18 A. Are we discussing the Method 1 model or the  19 Method 2 model?  20 Q. Well, it's both; right?  21 A. Well, it's --  22 Q. Let's start with Method 1.  23 A. Okay. Right.  24 Q. Right. Method 1, what was relevant was the</p> <p style="text-align: right;">Page 66</p>	<p>1 A. The -- between total cost and the rate.  2 Q. Okay. Which is the margin?  3 MR. WITTELS: Object.  4 A. The rate is not the margin.  5 Q. No, I know.  6 A. A rate is not a margin.  7 Q. The delta is. The delta is.  8 A. Okay. We can call that a margin, yes.  9 Q. The delta between the total costs --  10 A. Right.  11 Q. -- and the rate is --  12 A. Right.  13 Q. -- the margin; right?  14 A. That -- that -- you can characterize that as a  15 margin.  16 Q. Well, what would you characterize it?  17 A. I would just characterize it as a difference, as  18 a delta.  19 Q. Okay. You're not offering an opinion in this  20 case that under the sales agreement XOOM could not  21 charge more than the regulated utilities rate; right?  22 A. No. I mean, the comparison I made was between  23 supply costs and the rate under this contract.  24 Q. Right. And you're not offering a damage model</p> <p style="text-align: right;">Page 68</p>
<p>1 amount of gross margin that's input on top of its supply  2 costs; right?  3 MR. WITTELS: Objection.  4 A. Of the difference -- if you want to -- you're  5 expressing that as a form -- you're expressing the  6 delta, the difference, right, as a gross margin. That's  7 not exactly how it was calculated.  8 I mean, it was calculated just as there's  9 differences, not any -- you're saying a gross margin on  10 a gross margin calc -- I want to be specific about how  11 you're using the term "gross margin."  12 Q. I didn't think it was tricky. I mean, your  13 report says that you calculated by reference -- by  14 comparing XOOM's margin reports to XOOM's rate setting  15 workbooks; right?  16 A. Right. I was getting to the delta between rates  17 and costs.  18 Q. Okay.  19 A. It's just that it was in the margin setting  20 workbooks.  21 Q. So with respect to Model 1 the relevant  22 consideration was the delta between XOOM's total costs  23 and XOOM's margin?  24 MR. WITTELS: Objection.</p> <p style="text-align: right;">Page 67</p>	<p>1 that compares XOOM's variable rate charges to what  2 customers would have been charged by the utility during  3 the same time period?  4 MR. WITTELS: Objection.  5 A. No. The damage models as we discussed are the  6 two.  7 Q. Right. And you don't intend to offer an opinion  8 about that?  9 A. No. The only thing we used was a, as a graphical  10 comparison on the relationship between supply costs and  11 the utility rate, as an example. But the two models are  12 the two models.  13 Q. Yep. Okay. Are you offering an opinion about  14 what is a reasonable or appropriate margin for an ESCO  15 to charge?  16 A. Well, to build the second model we needed an  17 estimate of a margin. We really didn't have any  18 information that would allow that to be created, since  19 XOOM had, from what we can tell, had never done it that  20 way. They had never tried to calculate a, or they did  21 not present in any way, I can't say that they never  22 tried. They did not present in the rate setting  23 workbooks and other information calculations of any sort  24 like that. So we used the margin from fixed rate</p> <p style="text-align: right;">Page 69</p>



<p>1 customers as a proxy of a rate that XOOM itself had  2 used. I can't go further than that because there's no  3 information.  4 MR. MATTHEWS: Can you read my question  5 back, please.  6 (Prior testimony read back.)  7 "Are you offering an opinion  8 about what is a reasonable or  9 appropriate margin for an ESCO  10 to charge?"  11 A. Yeah. Conceptually, yes. Conceptually, yes.  12 Thanks for reading that back.  13 Q. That's okay. And what is the opinion that you're  14 offering conceptually about that?  15 A. Well, I mean, it's obviously related to the  16 contract that we've been discussing, whether it's based  17 on supply costs, that, you know, if the Court were to  18 decide that a margin was allowed, that it can't be an  19 uncapped margin, that's why we made a second calculation  20 using the fixed rate margin as a proxy of what might be  21 an acceptable margin.  22 Q. Are you offering any opinion about what is an  23 acceptable or appropriate, a reasonable margin aside  24 from just using XOOM's fixed rate margin?</p> <p style="text-align: right;">Page 70</p>	<p>1 Q. And if he said, "but can you give me a cutoff  2 point? Is there a number that you can assign to that?"  3 Would you be able to give him one?  4 MR. WITTELS: Objection.  5 A. I wouldn't be able to give him a number on the  6 stand because I wouldn't have the, XOOM's internal  7 information, no.  8 Q. Okay. So the margin in your view, --  9 A. Uh-huh.  10 Q. -- the margin that is appropriate for an ESCO to  11 charge conceptually --  12 A. Uh-huh.  13 Q. -- is ESCO specific?  14 A. Well, again, we're talking about relation to a  15 specific contract, so.  16 Q. I'm not.  17 A. You're not.  18 MR. WITTELS: Don't interrupt him.  19 A. I am talking -- sorry. I'm talking about this  20 specific contract. Other ESCOs may have, and I'm sure  21 do, very different contractual forms. And in fact,  22 ESCOs -- even the same ESCO will have lots, may have  23 different pricing, right, under different arrangements.  24 We're talking about variable rate pricing here as</p> <p style="text-align: right;">Page 72</p>
<p>1 A. We haven't offered that opinion, we don't have  2 any information to do that.  3 Q. Do you intend to?  4 A. If information were to be provided, but that  5 would have to come from XOOM. So I, in the absence of  6 not expecting anymore information to come, no.  7 Q. Well, we've gotten talking past each other again.  8 I'm talking conceptually. You've said that it will be  9 for the Court to decide whether a margin can be charged  10 and if so what's appropriate; right?  11 A. Right.  12 Q. And if we go to trial --  13 A. Uh-huh.  14 Q. -- and you take the witness stand --  15 A. Uh-huh.  16 Q. -- and I'm asking you questions and the judge  17 gets frustrated with my questions and says, "let's cut  18 to the chase. Mr. Adamson, what do you think is an  19 appropriate margin for an ESCO to charge?" What would  20 your answer be?  21 MR. WITTELS: Objection.  22 A. I would say conceptually it's got to be related  23 to the, related to the costs. And in a broad conceptual  24 basis.</p> <p style="text-align: right;">Page 71</p>	<p>1 opposed to fixed rate pricing.  2 Q. Uh-huh.  3 A. Fixed rate pricing, I think we can all agree, the  4 actual outturn margins could be quite different. A lot  5 depends on timing in that case; right? Okay. So I  6 don't know that there is a "single ESCO number" I don't  7 think that's a meaningful concept.  8 Q. Okay. Is there a single ESCO number for variable  9 rates that in your opinion would be a cap on what is an  10 appropriate or reasonable margin?  11 A. I don't have a number in mind because I don't  12 know what the, what would be claimed to be the types of,  13 of costs that, to be recovered in that margin. What I  14 don't -- you know, I don't have a number. What I am  15 offering is conceptually that the margin has to be based  16 on something from reality to be meaningful in the  17 context of this contract, and, you know, can't be  18 arbitrary.  19 Q. Okay.  20 A. But I don't have a number to give you.  21 Q. Okay. And would not be able to create one?  22 MR. WITTELS: Objection.  23 A. Not -- not on the information available right  24 now. I think that would need more inputs than are</p> <p style="text-align: right;">Page 73</p>




<p>1 Q. And they operate in a deregulated competitive 2 market in New York; right?</p> <p>3 A. Deregulated in some sense. I mean --</p> <p>4 Q. Right.</p> <p>5 A. -- retail electricity rates are not completely -- 6 they're still subject to regulation.</p> <p>7 Q. Agreed.</p> <p>8 A. Right.</p> <p>9 Q. But -- but a competitive rate is what an ESCO is 10 allowed to charge as opposed to a rate set by a 11 regulator; --</p> <p>12 MR. WITTELS: Objection.</p> <p>13 Q. -- right?</p> <p>14 MR. WITTELS: Objection.</p> <p>15 A. Well, I think you would need to be precise about 16 the statement. The -- that would depend on the what and 17 when.</p> <p>18 Q. Okay. But we can agree at least that XOOM is a 19 for profit business operating in a competitive market?</p> <p>20 MR. WITTELS: Objection.</p> <p>21 A. XOOM is definitely a for profit business. I 22 mean, it's not subject to perfect competition in an 23 economic sense. Which would be a quite different set of 24 criteria. I think in the, as you're broadly</p> <p style="text-align: right;">Page 82</p>	<p>1 costs, that's what we use for Model 1. That's what 2 XOOM -- that's the data XOOM provided to the Court.</p> <p>3 Q. Okay. Model 1, based on that calculation, would 4 actually result in XOOM losing money; right?</p> <p>5 A. Is that out of your hypothesis, or?</p> <p>6 Q. It's a question.</p> <p>7 A. I don't know.</p> <p>8 Q. You don't know?</p> <p>9 A. The -- I mean, we don't have -- we haven't seen 10 any P &amp; L by contract.</p> <p>11 Q. Conceptually --</p> <p>12 A. Uh-huh.</p> <p>13 Q. -- Model 1 says XOOM can charge no more -- 14 A. Uh-huh.</p> <p>15 Q. -- than its reported supply costs in the rate 16 setting workbooks; right?</p> <p>17 A. Uh-huh.</p> <p>18 Q. That's what Model 1 measures; right?</p> <p>19 A. Yeah, broadly. Yes.</p> <p>20 Q. So at best --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- Model 1 makes XOOM profit neutral; right?</p> <p>23 A. If you assume that their actual -- I think under 24 your construction you're saying under your, under your</p> <p style="text-align: right;">Page 84</p>
<p>1 characterizing it, I agree with you in -- in -- in 2 casual terms.</p> <p>3 Q. Okay. Why doesn't XOOM get to make any profit 4 under Model 1?</p> <p>5 A. The question is is whether XOOM gets to charge 6 the rates it agreed to under the contract. That's why I 7 used the example earlier, I can enter into -- I enter 8 into a contract, I sort of live or die by that contract; 9 right?</p> <p>10 I mean, we've all entered in, probably in our 11 lives entered into contracts for things that ended up 12 costing to fulfill more than, than what we made. I used 13 the example of the building rehabilitation.</p> <p>14 The real question to me is consistency with the 15 contract. Did they not make money at those rates? I 16 don't know. That's -- they don't report, as far as I've 17 seen, information on a contract-by-contract basis. But 18 the, you know, the question is around consistency with 19 the -- with the -- with the contract they signed here.</p> <p>20 Q. In your opinion that contract only allows XOOM to 21 charge its supply costs?</p> <p>22 A. Yeah. I mean, that's what -- that's what we 23 already discussed around the reading of supply costs, 24 and as you said, you know, supply costs it's total</p> <p style="text-align: right;">Page 83</p>	<p>1 construction you're saying under the -- under the 2 scenario that their reported total costs was equal to 3 their actual marginal supply costs, broadly, yes, I 4 agree.</p> <p>5 Q. Okay. In actuality, because as we discussed XOOM 6 and every other ESCO has certain fixed costs in addition 7 to its supply costs, Model 1 would result in XOOM losing 8 money; --</p> <p>9 MR. WITTELS: Objection.</p> <p>10 Q. -- right?</p> <p>11 MR. WITTELS: Objection.</p> <p>12 A. Losing money on, as a whole or on that specific 13 contract? Just for point of clarification.</p> <p>14 Q. Under that calculation, on that contract.</p> <p>15 A. On that contract?</p> <p>16 Q. Yes.</p> <p>17 A. Probably, yes. But, you know, businesses have 18 many -- have many, many activities where they don't make 19 a profit on that particular activity. I mean, Google 20 offers me a Gmail account and I'm not paying for it, 21 they have huge fixed costs of implementing that.</p> <p>22 Q. I'm just -- I want to understand your -- this is 23 your opinion. Right?</p> <p>24 A. I know my opinion.</p> <p style="text-align: right;">Page 85</p>

<p>1 Q. And so I'm not at this point even arguing with 2 you about it. I just want to understand it. 3 A. Uh-huh. 4 Q. You've said that under Model 1 -- 5 A. Right. 6 Q. -- anything above, -- 7 A. Uh-huh. 8 Q. -- anything charged by XOOM above the supply 9 costs reported in the rate setting workbook is a damage; 10 right? 11 A. Yes. 12 Q. And that -- under that model -- 13 A. Uh-huh. 14 Q. -- for those customers who were charged variable 15 rates by XOOM over the relative time period, XOOM would 16 lose money -- 17 MR. WITTELS: Objection. 18 Q. -- for those customers in that contract language? 19 MR. WITTELS: Asked and answered. 20 Objection. 21 A. Possibly. I don't think that's the question in 22 front of us. As I said, I mean, the question is 23 consistency with the contractual language. 24 Q. Right.</p> <p style="text-align: right;">Page 86</p>	<p>1 this information back that we made the calculation on 2 around their costs. 3 Q. Let me see if I can go at it a different way. 4 Model 1 in your opinion accurately measures the 5 damages -- 6 A. Uh-huh. 7 Q. -- flowing from what you believe is XOOM's 8 failure to set variable rates consistent with the 9 contract language? 10 A. Yes. 11 Q. And let's see. Paragraph 72 to your report. 12 A. Just give me one second to flip to the page. 13 MR. WITTELS: 72? 14 A. Uh-huh. Okay. 15 Q. Calculates the difference between XOOM's reported 16 supply costs and the rate that the regulated utility 17 charged; correct? 18 A. No. I don't think you said that right. 19 Q. Okay. What -- what does that calculate in 20 paragraph 72? 21 A. Well, the second sentence talks about XOOM's 22 total costs and the thing we just discussed; right? 23 As we -- as I indicate here we also did a, you 24 know, just a kind of a crosscheck calculation to see if</p> <p style="text-align: right;">Page 88</p>
<p>1 A. You said -- as you said yourself, they provided 2 their supply costs. What's the difference with supply 3 costs? 4 Q. I -- I don't know why this is difficult. Like, 5 the calculation isn't even difficult. I'm bad at math 6 and I can do this one. It's anything above the reported 7 supply cost is a damage under Model 1; -- 8 A. Yes. 9 Q. -- correct? 10 A. Yes. 11 Q. Even if anything above that reported supply cost 12 included certain fixed costs, that if they weren't 13 reported in the rate setting workbooks it is a damage 14 under Model 1? 15 MR. WITTELS: Objection. 16 A. That is how the calculus -- that's how the 17 calculations go through, because that's how XOOM 18 reported its total costs, yes. 19 Q. And that is because your reading of the contract 20 is that XOOM can charge no more than the reported total 21 costs? 22 A. Since we went through this morning, it depends on 23 how you read supply costs. I read supply costs as, you 24 know, costs directly related to supply. XOOM reported</p> <p style="text-align: right;">Page 87</p>	<p>1 it's in the same, you know, in the same order of 2 magnitude and just crosschecked it again to what XOOM 3 had reported the applicable utility rates to be. You 4 know, they're generally similar. So if you were to take 5 the deltas, not against XOOM's total cost but against 6 the utility rates, then you get 49 million, not 55 7 million. 8 Q. How is that different from what I asked? 9 A. You said, as I remember, this compares the, the 10 total cost to the -- I'm not exactly sure what you said, 11 but I think it had some consistency with that. If you 12 want to read it back. 13 Q. It's okay. The first sentence of 72 -- 14 A. Uh-huh. 15 Q. -- calculates the difference between XOOM's 16 reported supply costs -- 17 A. Uh-huh. 18 Q. -- and the rate that the utility charged? 19 A. Yes. 20 Q. Okay. And the utility in New York is required to 21 be profit neutral; right? 22 A. Well, you -- the utilities in New York are 23 actually investor owned, most of them are investor owned 24 utilities, so they're not, they are not nonprofit</p> <p style="text-align: right;">Page 89</p>

<p>1 A. Well, in a sense, yes, because the, you 2 know -- well, first off, the fix rate is used as, you 3 know, a way of coming up with a reasonable margin that, 4 based on what XOOM itself set rates on. You know, it's 5 not -- it's based on the information available. 6 So one question then comes to, you know, are, is 7 there some reason that, that XOOM would need to charge a 8 higher rate on fixed rate customers? If so I don't 9 really see what it is. 10 MR. WITTELS: Variable. 11 A. Sorry. On variable rate customers. I am -- we 12 don't have any information to, to delve into that. 13 Q. I'm asking conceptually. And it's okay if you 14 are not offering this opinion. I'm not saying you 15 should or you shouldn't be. I just want to know in this 16 case are you going to offer an opinion that it is not 17 fair for XOOM to seek a higher margin on variable rates 18 conceptually than it does on fixed rates? 19 A. In this context, yes. Because there is no XOOM 20 provided despite all of the information about how those 21 methods were set of how these margins came up. How 22 these -- how the variable rate margins were determined 23 and that's a reasonable proxy, yes. 24 Q. Are you offering that opinion more broadly, that Page 98</p>	<p>1 that might be a thing. But we -- we haven't seen that 2 here. It was asked, but we haven't seen it. 3 Q. Who asked? 4 A. Well, the discovery request asked for costs and 5 pricing methodologies and stuff. 6 Q. Paragraph 75. It says -- this is towards the 7 bottom, I suppose it's the last sentence. 8 "It appears that XOOM was able to operate and 9 make a reasonable profit selling fixed rate contracts 10 with substantially lower margins than variable 11 contracts, and yet arbitrarily imposed much higher 12 margins on their variable rate customers?" 13 Do you see that? 14 A. Yes. 15 Q. Where does it appear that XOOM was able to 16 operate and make a reasonable profit selling fixed rate 17 contracts with substantially lower margins? 18 A. Well, the margins you can kind of see in the 19 table, the average margins over years. As I say, it 20 appears that they chose to offer those fixed rate 21 margins over a considerable period of time. 22 Q. Uh-huh. 23 A. So they would have had -- XOOM would have had the 24 opportunity to offer if it was saying, "oh, my God, Page 100</p>
<p>1 in all circumstances -- and I'm asking this, to give you 2 some prospective on why I'm asking, because you've done 3 it in two cases now that I know of, set the fixed rate 4 margin as a benchmark. 5 A. Uh-huh. 6 Q. So are you going to offer the opinion that in the 7 ESCO world -- 8 A. Uh-huh. 9 Q. -- it is not appropriate for an ESCO to seek a 10 higher margin for variable rates than it does for fixed 11 rates? 12 MR. WITTELS: Objection. 13 A. I mean, to me the rates have to be set for the 14 contract. The -- the use of fixed rates seemed 15 appropriate for coming up with the reasonable proxy 16 given that, you know, the, the risks associated with the 17 variable rates in general would be similar or probably 18 lower. If you say that there are other fixed costs it's 19 hard to see why they are different. We never saw 20 anything in this case saying, demonstrating why there 21 would be a difference between the two. If someone could 22 present, you know, compelling economic evidence that 23 says, "by God, I can prove to you that the costs of 24 variable rate is completely different than fixed rate" Page 99</p>	<p>1 we're losing tons of money on all of our variable 2 customers -- I mean, our fixed rate plans that could 3 have been adjusted." 4 But we don't -- as I mentioned before we don't 5 have contract by contract P &amp; Ls, for example. 6 Q. Right. So I think we're saying the same thing. 7 Your table 1 reflects gross margin for fixed rate 8 customers; right? 9 A. Yes. 10 Q. Okay. 11 A. I think so, yes. 12 Q. But you don't know whether -- 13 VIDEOGRAPHER: I'm sorry. I didn't hear 14 that. You're hitting the microphone. 15 A. Oh, I'm sorry. 16 VIDEOGRAPHER: Bring it up a little higher. 17 A. How is that? Is that better? 18 VIDEOGRAPHER: Great. Thank you. 19 A. Okay. Thank you. Sorry. 20 Q. That's okay. But you don't know if XOOM actually 21 made a net profit on those same customers? 22 A. No, we don't have -- we don't have customer 23 segment level profit and loss data. 24 Q. Okay. In the -- circling back to the Richards Page 101</p>

<p>1 case real quick. In that case you were not offering a  2 legal interpretation of what the contract language  3 meant; right?  4 A. No, I would not have offered a legal  5 interpretation.  6 Q. And your interpretation of XOOM's contract  7 language here is similarly constrained. You -- in the  8 sense that you are not offering a legal interpretation  9 here, either?  10 MR. WITTELS: Objection.  11 Q. Right?  12 A. Yeah, I'm not offering a legal opinion, I think  13 as we discussed, yes.  14 Q. Not to any greater degree than you did in the  15 Richards case?  16 A. No. Just not offering a legal opinion.  17 Q. Okay. Look if you would at Exhibit 2, which is  18 the sales agreement.  19 A. Yep.  20 Q. And you directed me to -- we talked about the  21 key, the critical --  22 A. Uh-huh.  23 Q. -- rate setting provision earlier. And then you  24 directed me to a couple of others that you looked at,</p> <p style="text-align: right;">Page 102</p>	<p>1 charges are also discussed at the rate setting --  2 Q. Okay.  3 A. -- thing, just if you read the last sentence. I  4 think what I was pointing to, just to cut the -- was --  5 there were things that came up was, it's under the title  6 thing. And it says, "delivered to a location considered  7 the point of delivery," you know, I was just commenting  8 that point of delivery obviously depends for a customer,  9 depending on what utility serves them in the state.  10 Q. Okay. Got it. Do you see the provision right  11 above that, the agency provision?  12 A. Uh-huh.  13 Q. Do you see the last sentence of that section,  14 "these services are provided on an arm's length basis  15 and market-based compensation is included in the price  16 noted above."  17 Did I read that correctly?  18 A. Yes.  19 Q. What does that sentence mean to you?  20 A. "These services are provided on an arm's length  21 basis and market-based compensation is included in the  22 price noted above." Well, where it says they have  23 energy, they have transportation, those of the LDU, the  24 transmission facilities and LDU have compensation that's</p> <p style="text-align: right;">Page 104</p>
<p>1 one being the price section.  2 A. Uh-huh.  3 Q. Do you remember that?  4 A. Yes.  5 Q. And then -- I'm not sure where it appears, but  6 you also pointed me to a provision about delivery  7 charges; do you remember that?  8 MR. WITTELS: What -- what's the question  9 here that you're asking him, Matt? I mean, what are you  10 asking?  11 A. Sorry. Can you repeat.  12 Q. So you -- when I asked you earlier about your  13 interpretation of this contract, or your review of  14 it, --  15 A. Uh-huh.  16 Q. -- let's say, you -- you mentioned the rate  17 setting provision that's at the top of the table; yes?  18 A. Uh-huh. Yes.  19 Q. And you mentioned the price section at the bottom  20 of page 1; yes?  21 A. Yes.  22 Q. And then you also mentioned some provision  23 related to delivery charges.  24 A. Well, delivery charges, like, utility delivery</p> <p style="text-align: right;">Page 103</p>	<p>1 market based.  2 Q. Okay. Do -- do you have any opinion about what  3 the price noted above refers to?  4 A. In the -- in the price noted above and the price  5 related to the arranging for and contracting  6 transportation, that's one possibility. No, I don't  7 have an express opinion about that.  8 Q. Okay. Fair enough. So this agency section in  9 that sentence specifically are not something that you  10 considered in connection with your evaluation of whether  11 or not XOOM set its rates consistent with the terms of  12 the sales agreement?  13 A. No. This seems to be referencing to  14 you -- they're specifically allowed to buy the energy  15 and arrange it through the transmission and LDU systems.  16 Q. Okay. So it was --  17 A. Which is not -- which is not, I don't think, very  18 controversial.  19 Q. So that -- that market-based compensation was not  20 factored into your damage calculations either; right?  21 A. No, because I focused on supply costs. This I  22 kind of take as being, these services are provided on an  23 arm's length basis, marketplace compensation.  24 Q. Okay. Let's talk about Mr. Coleman's correlation</p> <p style="text-align: right;">Page 105</p>

<p>1 their retail business.</p> <p>2 Q. Okay. Well, I guess --</p> <p>3 A. For example, a bunch of the Texas companies have</p> <p>4 retail supply businesses. We did a little bit on that,</p> <p>5 but not a major thing. But a bunch of the Texas</p> <p>6 companies had retail supply businesses that also had</p> <p>7 substantial other businesses.</p> <p>8 Q. I think I understand what you're saying. And you</p> <p>9 didn't work for the retail side of their businesses, you</p> <p>10 worked for the other side of their businesses?</p> <p>11 A. Or sometimes we would be hired on some kind of</p> <p>12 corporate strategy type engagement, which might be</p> <p>13 pretty broad.</p> <p>14 Q. Got it. Okay. I thank you for your time and</p> <p>15 your patience with me.</p> <p>16 MR. MATTHEWS: I'll pass the witness.</p> <p>17 A. Thank you.</p> <p>18 Q. Yes, sir.</p> <p>19</p> <p>20 EXAMINATION</p> <p>21</p> <p>22 BY MR. WITTELS:</p> <p>23 Q. Mr. Adamson, I just really have one question for</p> <p>24 you. You were asked by counsel for XOOM about whether</p> <p style="text-align: right;">Page 138</p>	<p>1 XOOM or some broad question.</p> <p>2 Q. And the answer was?</p> <p>3 A. I believe he said yes, they were, they were both</p> <p>4 profitable. Both fixed rate and variable rate were</p> <p>5 profitable.</p> <p>6 Q. Okay. I have no further questions at this time.</p> <p>7 Thanks.</p> <p>8 MR. MATTHEWS: Thanks very much.</p> <p>9 A. Thank you.</p> <p>10 VIDEOGRAPHER: The time is 2:39, we are off</p> <p>11 the record.</p> <p>12 COURT REPORTER: And, Mr. Matthews, your</p> <p>13 order?</p> <p>14 MR. MATTHEWS: My order is an expedited</p> <p>15 transcript, just, I don't need any print copies.</p> <p>16 Electronic only. PDF exhibits.</p> <p>17 COURT REPORTER: Expedite by Friday?</p> <p>18 MR. MATTHEWS: Yes.</p> <p>19 (Whereupon, the deposition concluded at</p> <p>20 approximately 2:39 p.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: right;">Page 140</p>
<p>1 the company was able to make any profits on its fixed</p> <p>2 rate customers; do you remember that question?</p> <p>3 A. Yeah. Not in exact wording, but I remember the</p> <p>4 question.</p> <p>5 Q. Yeah. And did you ask me to, whether you could</p> <p>6 go back and review your report when we had a break?</p> <p>7 A. Yeah, well -- yes, we were discussing the report.</p> <p>8 Q. And did you reread paragraph 57?</p> <p>9 A. Yes.</p> <p>10 Q. And does that answer the question of whether XOOM</p> <p>11 made money and was profitable on its fixed rate</p> <p>12 customers?</p> <p>13 MR. MATTHEWS: Objection. Leading.</p> <p>14 A. Well, I just -- it just reminded me there was</p> <p>15 a -- I had said that there was not a specific P&amp;L, this</p> <p>16 was a reference in the report to deposition testimony</p> <p>17 from a XOOM witness about the profitability of this.</p> <p>18 Q. And what did your report find and state?</p> <p>19 A. I don't remember exactly how he worded it. I</p> <p>20 think there had been a, in the deposition there was a</p> <p>21 question about, it was around, I don't have the</p> <p>22 transcript in front of me, of course, of the deposition,</p> <p>23 but it was something around the line of were -- were a</p> <p>24 fixed rate -- were fixed rate customers profitable for</p> <p style="text-align: right;">Page 139</p>	<p>1 CERTIFICATE</p> <p>2</p> <p>3 COMMONWEALTH OF MASSACHUSETTS</p> <p>4 SUFFOLK, ss.</p> <p>5</p> <p>6 I, Laurie Langer, Registered Professional Reporter</p> <p>7 and Notary Public in and for the Commonwealth of</p> <p>8 Massachusetts, do hereby certify that the witness whose</p> <p>9 deposition is hereinbefore set forth, was duly sworn by</p> <p>10 me and that such deposition is a true record of the</p> <p>11 testimony given by the witness.</p> <p>12</p> <p>13 I further certify that I am neither related to or</p> <p>14 employed by any of the parties in or counsel to this</p> <p>15 action, nor am I financially interested in the outcome</p> <p>16 of this action.</p> <p>17</p> <p>18 In witness whereof, I have hereunto set my hand and</p> <p>19 seal this 11th day of November, 2022.</p> <p>20</p> <p>21 </p> <p>22 NOTARY PUBLIC</p> <p>23 Commission Expires</p> <p>24 7/27/2023</p> <p style="text-align: right;">Page 141</p>

<p>1 DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3 Our Assignment No: 5544017</p> <p>4 Case Caption: Mirkin vs. XOOM Energy</p> <p>5</p> <p>6 DECLARATION UNDER PENALTY OF PERJURY</p> <p>7 I declare under penalty of perjury that I have</p> <p>8 read the entire transcript of my Deposition taken in the</p> <p>9 captioned matter or the same has been read to me, and</p> <p>10 the same is true and accurate, save and except for</p> <p>11 changes and/or corrections, if any, as indicated by me</p> <p>12 on the DEPOSITION ERRATA SHEET hereof, with the</p> <p>13 understanding that I offer these changes as if still</p> <p>14 under oath.</p> <p>15 Signed on the _____ day of _____ 2022</p> <p>16</p> <p>17 _____</p> <p>18 SEABRON ADAMSON</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 Job No. HOU5544017</p> <p style="text-align: right;">Page 142</p>	<p>1 Steven L. Wittels, Esq.</p> <p>2 slw@wittelslaw.com</p> <p>3 November 11, 2022</p> <p>4 RE: Mirkin, Susanna Et. Al. v. XOOM Energy, LLC And XOOM</p> <p>Energy New York, LLC</p> <p>5 11/8/2022, Seabron Adamson (#5544017)</p> <p>6 The above-referenced transcript is available for</p> <p>7 review.</p> <p>8 Within the applicable timeframe, the witness should</p> <p>9 read the testimony to verify its accuracy. If there are</p> <p>10 any changes, the witness should note those with the</p> <p>11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of</p> <p>13 Deponent and Errata and return to the deposing attorney.</p> <p>14 Copies should be sent to all counsel, and to Veritext at</p> <p>15 errata-tx@veritext.com.</p> <p>16</p> <p>17 Return completed errata within 30 days from</p> <p>18 receipt of testimony.</p> <p>19 If the witness fails to do so within the time</p> <p>20 allotted, the transcript may be used as if signed.</p> <p>21</p> <p>22 Yours,</p> <p>23 Veritext Legal Solutions</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 144</p>
<p>1 DEPOSITION ERRATA SHEET</p> <p>Job No. HOU5544017</p> <p>2 Page No. ____ Line No. ____ Change to: _____</p> <p>3 _____</p> <p>4 Reason for change: _____</p> <p>5 Page No. ____ Line No. ____ Change to: _____</p> <p>6 _____</p> <p>7 Reason for change: _____</p> <p>8 Page No. ____ Line No. ____ Change to: _____</p> <p>9 _____</p> <p>10 Reason for change: _____</p> <p>11 Page No. ____ Line No. ____ Change to: _____</p> <p>12 _____</p> <p>13 Reason for change: _____</p> <p>14 Page No. ____ Line No. ____ Change to: _____</p> <p>15 _____</p> <p>16 Reason for change: _____</p> <p>17 Page No. ____ Line No. ____ Change to: _____</p> <p>18 _____</p> <p>19 Reason for change: _____</p> <p>20 Page No. ____ Line No. ____ Change to: _____</p> <p>21 _____</p> <p>22 Reason for change: _____</p> <p>23 SIGNATURE: _____ DATE: _____</p> <p>24 SEABRON ADAMSON</p> <p style="text-align: right;">Page 143</p>	